

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARIAD PHARMACEUTICALS, INC.,)	
MASSACHUSETTS INSTITUTE OF)	
TECHNOLOGY, THE PRESIDENT AND)	
FELLOWS OF HARVARD COLLEGE, and)	
THE WHITEHEAD INSTITUTE FOR)	
BIOMEDICAL RESEARCH,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 07-202-JJF
)	
AMGEN INC., IMMUNEX CORPORATION,)	
AMGEN USA INC., AMGEN)	
MANUFACTURING LIMITED, IMMUNEX)	
RHODE ISLAND CORPORATION, and)	
WYETH,)	
)	
Defendants.)	

NOTICE OF DISMISSAL

WHEREAS, the complaint by plaintiffs (collectively “ARIAD”) in the above action (the “Second Action”) is identical to the infringement counterclaim that they have asserted in an earlier-filed declaratory judgment action styled Amgen Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al., C.A. No. 06-259-MPT (the “First Action”);

WHEREAS, the Second Action was filed purely as a protective measure at a time when the plaintiffs in the First Action were contesting whether ARIAD could assert its infringement case as a counterclaim in the First Action;

WHEREAS, ARIAD’s infringement case now is pending as a counterclaim in the First Action, thus eliminating the need for the duplicative Second Action to proceed; and

WHEREAS, the complaint in the Second Action has never been served, and defendants accordingly have not answered or moved for summary judgment; now therefore,

PLAINTIFFS HEREBY DISMISS THIS ACTION, without prejudice, pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure.

ASHBY & GEDDES

/s/ Steven J. Balick

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Dated: July 27, 2007
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